

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue
San Francisco, California, 94102-3688

Report

TO: Members of the Judicial Council

FROM: Civil and Small Claims Advisory Committee
Hon. Elihu Berle, Chair
Patrick O'Donnell, Committee Counsel
Small Claims and Limited Cases Subcommittee
Hon. Mary Thornton House, Chair
Cara Vonk, Subcommittee Counsel, 415-865-7669
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DATE: February 2, 2005

SUBJECT: Default Judgment: Technical Revisions to *Request for Entry of Default* (revise form 982(a)(6)) (Action Required)

Issue Statement

Administrative Office of the Courts staff has identified spacing errors that should be corrected in form 982(a)(6). The proposal was not circulated for comment because it is noncontroversial, technical in nature, and urgently needed to promote the effective administration of justice.

Recommendation

Staff recommends that the Judicial Council, effective February 18, 2005:

Revise form 982(a)(6), *Request for Entry of Default (Application to Enter Default)* to modify formatting to provide adequate space in (1) item 1 for entering the names of plaintiffs by allowing plaintiffs names to be placed in a new item 1b and (2) item 6b for entering the names and addresses of defendants.

The revised form is attached at pages 3–4.

Rationale for Recommendation

The council adopted two minor revisions to the default form effective January 1, 2005. These were to (1) require that item 7, the memorandum of costs, be completed only when a money judgment is requested and (2) modify the declaration of nonmilitary status under item 8 to refer to the Servicemembers Civil Relief Act.

In the process of making these revisions, formatting changes were made to this mandatory form that deleted space needed to complete items 1 and 6b. Item 1 requires entry of each plaintiff's name and item 6b requires entry of each defendant's name and address. As a consequence of these omissions, members of the public and court staff have contacted the Administrative Office of the Courts, requesting that the form be revised as soon as practicable to correct these formatting problems.

The revised form would address these problems by (1) creating a new item 1b with increased space for entry of the names of plaintiffs and (2) increasing the space in 6b for entry of the defendants' names and addresses.

Alternative Actions Considered

Staff considered recommending that this change take effect on July 1, 2005. But delaying the correction will create hardship for applicants who seek a default judgment and are then faced with a mandatory form that does not permit the necessary information to be inserted in the space provided.

Comments From Interested Parties

Because these are technical amendments, the proposal was not circulated for comment. Staff has received telephone calls and e-mails from court clerks and members of the public asking that the form be corrected as soon as practicable.

Implementation Requirements and Costs

No special costs are anticipated. Publishers would have to update this form.

Attachment

| | |
|--|---|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <div style="display: flex; justify-content: space-between;"> <div>TELEPHONE NO.: E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):</div> <div>FAX NO. (Optional):</div> </div> | FOR COURT USE ONLY <div style="font-size: 24pt; font-weight: bold;">DRAFT 4</div> <div style="font-size: 24pt; font-weight: bold;">2/3/05</div> |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: | |
| PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT: | |
| <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> REQUEST FOR (Application) <input type="checkbox"/> Entry of Default <input type="checkbox"/> Court Judgment </div> <div style="width: 35%;"> <input type="checkbox"/> Clerk's Judgment </div> </div> | CASE NUMBER: |

1. TO THE CLERK: On the complaint or cross-complaint filed
- on (date):
 - by (name):
 - ☐ Enter default of defendant (names):
 - ☐ I request a court judgment under Code of Civil Procedure sections 585(b), 585(c), 989, etc., against defendant (names):

(Testimony required. Apply to the clerk for a hearing date, unless the court will enter a judgment on an affidavit under Code Civ. Proc., § 585(d).)

- ☐ Enter clerk's judgment
 - (1) ☐ for restitution of the premises only and issue a writ of execution on the judgment. Code of Civil Procedure section 1174(c) does not apply. (Code Civ. Proc., § 1169.)
☐ Include in the judgment all tenants, subtenants, named claimants, and other occupants of the premises. The *Prejudgment Claim of Right to Possession* was served in compliance with Code of Civil Procedure section 415.46.
 - (2) ☐ under Code of Civil Procedure section 585(a). (Complete the declaration under Code Civ. Proc., § 585.5 on the reverse (item 5).)
 - (3) ☐ for default previously entered on (date):

| 2. Judgment to be entered. | <u>Amount</u> | <u>Credits acknowledged</u> | <u>Balance</u> |
|----------------------------------|---------------|-----------------------------|----------------|
| a. Demand of complaint | \$ | \$ | \$ |
| b. Statement of damages * | | | |
| (1) Special | \$ | \$ | \$ |
| (2) General | \$ | \$ | \$ |
| c. Interest | \$ | \$ | \$ |
| d. Costs (see reverse) | \$ | \$ | \$ |
| e. Attorney fees | \$ | \$ | \$ |
| f. TOTALS | \$ | \$ | \$ |

g. **Daily damages** were demanded in complaint at the rate of: \$ _____ per day beginning (date): _____
 (* Personal injury or wrongful death actions; Code Civ. Proc., § 425.11.)

3. ☐ (Check if filed in an unlawful detainer case) Legal document assistant or unlawful detainer assistant information is on the reverse (complete item 4).

Date: _____

| | |
|--|--|
| (TYPE OR PRINT NAME) | (SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF) |
| <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> (1) <input type="checkbox"/> Default entered as requested on (date): (2) <input type="checkbox"/> Default NOT entered as requested (state reason): </div> <div style="width: 35%; text-align: right;"> Clerk, by _____, Deputy </div> </div> | |

**FOR COURT
USE ONLY**

| | |
|---|--------------|
| PLAINTIFF/PETITIONER: <input type="checkbox"/> DEFENDANT/RESPONDENT: | CASE NUMBER: |
|---|--------------|

4. **Legal document assistant or unlawful detainer assistant (Bus. & Prof. Code, § 6400 et seq.).** A legal document assistant or unlawful detainer assistant ☐ did ☐ did **not** for compensation give advice or assistance with this form.
*(If declarant has received **any** help or advice for pay from a legal document assistant or unlawful detainer assistant, state):*

- | | |
|--|----------------------------|
| a. Assistant's name: | c. Telephone no.: |
| b. Street address, city, and zip code: | d. County of registration: |
| | e. Registration no.: |
| | f. Expires on (date): |

5. ☐ **Declaration under Code of Civil Procedure Section 585.5** (required for entry of default under Code Civ. Proc., § 585(a)).

This action

- | | | | | | |
|----|--------------------------|----|--------------------------|--------|---|
| a. | <input type="checkbox"/> | is | <input type="checkbox"/> | is not | on a contract or installment sale for goods or services subject to Civ. Code, § 1801 et seq. (Unruh Act). |
| b. | <input type="checkbox"/> | is | <input type="checkbox"/> | is not | on a conditional sales contract subject to Civ. Code, § 2981 et seq. (Rees-Levering Motor Vehicle Sales and Finance Act). |
| c. | <input type="checkbox"/> | is | <input type="checkbox"/> | is not | on an obligation for goods, services, loans, or extensions of credit subject to Code Civ. Proc., § 395(b). |

6. **Declaration of mailing (Code Civ. Proc., § 587).** A copy of this *Request for Entry of Default* was

- a. ☐ **not mailed** to the following defendants, whose addresses are **unknown** to plaintiff or plaintiff's attorney (names):
- b. ☐ **mailed** first-class, postage prepaid, in a sealed envelope addressed to each defendant's attorney of record or, if none, to each defendant's last known address as follows:
- (1) Mailed on (date):
- (2) To (specify names and addresses shown on the envelopes):

I declare under penalty of perjury under the laws of the State of California that the foregoing items 4, 5, and 6 are true and correct.
 Date:

| | |
|----------------------|------------------------------|
| (TYPE OR PRINT NAME) | (SIGNATURE OF DECLARANT) |
|----------------------|------------------------------|

7. **Memorandum of costs** (required if money judgment requested). Costs and disbursements are as follows (Code Civ. Proc., § 1033.5):

- | | |
|--------------------------|----------|
| a. Clerk's filing fees | \$ |
| b. Process server's fees | \$ |
| c. Other (specify): | \$ |
| d. | \$ |
| e. TOTAL | \$ _____ |

f. ☐ Costs and disbursements are waived.

g. I am the attorney, agent, or party who claims these costs. To the best of my knowledge and belief this memorandum of costs is correct and these costs were necessarily incurred in this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
 Date:

| | |
|----------------------|------------------------------|
| (TYPE OR PRINT NAME) | (SIGNATURE OF DECLARANT) |
|----------------------|------------------------------|

8. ☐ **Declaration of nonmilitary status** (required for a judgment). No defendant named in item 1c of the application is in the military service so as to be entitled to the benefits of the Servicemembers Civil Relief Act (50 U.S.C. App. § 501 et seq.).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
 Date:

| | |
|----------------------|------------------------------|
| (TYPE OR PRINT NAME) | (SIGNATURE OF DECLARANT) |
|----------------------|------------------------------|